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NOTES OF CASES.

Manslaughter by X-Ray Burns.—Defendant, in the case of *State v. Lester*, 149 Northwestern Reporter, 297, was indicted for manslaughter in the second degree for causing the death of a person in the course of taking an X-ray photograph. A demurrer to the indictment was overruled by the district court, and he appealed to the Minnesota Supreme Court. The indictment sets out, in substance, that the picture was taken on the assurance to the deceased that the exposure to the X-ray would do her no harm; that she relied upon defendant's assurances as a medical man and allowed the photograph to be taken; that the X-ray machine is a dangerous instrument except where skillfully operated, and that defendant placed the tube of the machine unreasonably close to the body of deceased, and failed to give her proper and requisite attention to prevent burning; that her body was so exposed for an unreasonable time, thus causing what is known as an X-ray burn, from which she died. The court takes judicial notice of the fact that X-ray machines sometimes cause serious burns, and holds that, under the statute declaring guilty of manslaughter in the second degree one who causes death by any act, procurement, or culpable negligence, the indictment is not demurrable. The court says in referring to the term "culpable negligence:" "Numerous definitions of this term may be found. 2 Words and Phrases, 1180; 1 Words and Phrases (Second Series) 1174. * * * Culpable negligence—that is, criminal negligence—is largely a matter of degree, and, as has been well said, incapable of precise definition. * * * When considered as the basis of a charge of manslaughter against a medical man or person assuming to act as such, culpable negligence exists where he exhibits gross lack of competency or inattention or wanton indifference to the patient's safety, which may arise from his gross ignorance of the science or through gross negligence in either its application or lack of proper skill in the use of instruments." The order of the lower court is affirmed.

Liability for Price of Infringing Law Books.—Some time in the year 1908 the Edward Thompson Company entered in to a contract with H. M. Pakulski for the sale of a set of the American and English Encyclopedia of Law, Second Edition. Subsequently thereto this work was held an infringement of various publications of the West Publishing Company. The final decree in the case between the two companies, which may be found in 184 Federal Reporter, 749, was offered in evidence in the action against Pakulski in support of his defense of illegality in the contract of sale. The Supreme Judicial Court of Massachusetts (*Edward Thompson Co. v. Pakulski*, 107 Northeastern Reporter, 412), while recognizing the